

Ordinance No. _____
Tulalip Tribal Nonprofit Corporations

107-3-1 Short Title

This Code shall be known and may be cited as the Tulalip Tribal Corporations Chapter.

107-3-2 Definitions

- a. Corporation or Domestic Corporation means a corporation chartered under the provisions of this Chapter.
- b. Articles of Incorporation means the original or reinstated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.
- c. Shares means the units into which the proprietary interests in a corporation, whether before or after incorporation.
- d. Subscriber means one who subscribes for shares in a corporation, whether before or after incorporation.
- e. Shareholder means one who is a holder of record or shares in a corporation.
- f. Authorized Shares means the shares of all classes which the corporation is authorized to issue.
- g. Net Assets means the amount by which the total assets of a corporation is authorized to issue.
- h. Stated Capital means, at any particular time, the sum of:
 - 1. The par value of all shares that have been issued; and
 - 2. Such amounts not included in clause (1) of this subsection as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sums as have been affected in a manner permitted by law.
- i. Surplus means the excess of the net assets of a corporation over its stated capital.
- j. Earned Surplus means the portions of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfer to stated capital and capital surplus to the extent such distribution and transfer are made out of earned surplus.
- k. Capital Surplus means the portions of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfer to

stated capital and capital surplus to the extent such distribution and transfers are made out of earned surplus.

- l. By-laws means the Code or Codes of Rules adopted for the regulation or management of the affairs of a corporation irrespective of the names or names by which such rules are designated.
- m. Member means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or by-laws.
- n. Board of Directors means the group of persons vested with the management of the affairs of a corporation irrespective of the name by which such group is designated.
- o. Insolvent means that a corporation is unable to pay its debts as they become due in the usual course of its affairs.
- p. Secretary means the Secretary of the Board of Directors that the agent or agents designated by her or him to perform any function vested in the Secretary by this Chapter.
- q. Reservation means the Tulalip Indian Reservation.
- r. The Court means except where otherwise specified, the Tulalip Tribal Court.

107-2-3 Applicability

The provisions of this Chapter shall apply to all corporations organized hereunder or which elect to accept the provisions of this Chapter.

107-2-4 Purpose

Corporations may be organized under this Chapter for any lawful purpose or purposes including, but not limited to, one or more of the following purposes: benevolent; religious, missionary; educational; scientific; research; literary; musical; social; athletic; patriotic; political; civil; professional; commercial; industrial; business; or trade association; mutual or civic improvement; promotion of the Arts.

107-2-5 General Powers

Each corporation shall have the power:

- a. To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation;
- b. To sue and be sued, complain and defend, in its corporate name;
- c. To have a corporate seal which may be altered at pleasure and to use the same by causing it, or a facsimile thereof, to be impressed or affixed in any other manner reproduced;

- d. To purchase, take, receive, lease, take by gift or bequest or otherwise acquire, own, hold, improve, use, and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;
- e. To sell convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;
- f. To lend money to and otherwise assist its employees other than its officers and directors;
- g. To purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, corporations, whether or not incorporated under this Chapter and whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligation of the United States, or of any other government, state, territory, governmental district, or municipality or of any instrumentality thereof or any tribe;
- h. To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchise and income;
- i. To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;
- j. To conduct its affairs, carry on its operations, hold property, and have offices and exercise the powers granted by this Chapter;
- k. To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation;
- l. To make and alter by-laws, not inconsistent with its articles of incorporation or with the laws, ordinances, and regulations of the Tulalip Board of Directors and the United States, for the administration and regulation of the affairs of the corporation; and
- m. Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for religious, charitable, scientific research, or educational purposes, or for other purposes for which the corporation is organized.

107-2-6 Defense of Ultra vires

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

- a. In a proceeding by a member or a director against the corporation to enjoin the doing of any act, or the transfer of real or personal property by or to the corporation. If the act or transfer sought to be enjoined is being, or is to be, performed pursuant to any contract to which the corporation is a party, the Court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, as the case may be, compensation for the loss or damages sustained by either of them which may result from the action of the Court in setting aside and enjoining the performance of the contract shall not be awarded by the Court as a loss or damages sustained.
- b. In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the incumbent or former officers or trustee of the corporation; and
- c. In a proceeding by the Tribal Secretary as provided in this Chapter, to dissolve the corporation or in a proceeding by the Tribal Secretary to enjoin the corporation from the transaction of authorized acts.

107-2-7 Corporate Name

The Corporate Name:

- a. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation; and
- b. Shall not be the same as, or deceptively similar to the name of any corporation, whether for profit or not for profit organized under this Chapter or any other Code or resolution of the Tribe to transact business or conduct affairs in the Reservation.

107-2-8 Registered Office and Registered Agent

Each corporation shall have and continuously maintain on this Reservation:

- a. A registered office.
- b. A registered agent.

107-2-9 Registered Agent as an Agent for Services

- a. The registered agent appointed by a corporation as provided in this Chapter shall be an agent of such corporation upon whom a process, notice, or demand required or permitted by law to be served upon the corporation may be served.
- b. Whenever a corporation shall fail to appoint or maintain a registered agent in this Reservation or whenever its registered agent cannot, with reasonable diligence, be found at the registered office, then the Tribal Secretary shall be an agent of such corporation

upon whom any such process, notice, or demand shall be made by delivering to and leaving with them, or with any clerk having charge of their office, duplicate copies of such process, notice or demand. In the event that any such process, notice or demand is served on the Tribal Secretary, he shall immediately cause one of such copies thereof to be forwarded by registered or certified mail, addressed to the corporation at its registered office.

- c. The Tribal Secretary shall keep a record of all processes, notices, and demands served upon them under this Section, and shall keep a record therein the time of such service and their action with respect thereto.
- d. Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

107-2-10 Members

A corporation may have members or may have no members. If the corporation has members, the manner of election or appointment and the qualifications and rights of the members shall be set forth in the articles of incorporation or the by-laws. If the corporation has no members, that fact shall be set forth in the articles of incorporation. A corporation may issue certificates evidencing membership therein.

107-2-11 By-laws

The initial by-laws of a corporation shall be adopted by its Board of Directors. The power to alter, amend, or repeal the by-laws or adopt new by-laws shall be vested in the Board of Directors unless otherwise provided in the articles of incorporation or the by-laws.

107-2-12 Meetings of Members

- a. Meetings of members may be held at such place within or without the Reservation as may be provided in the by-laws or, where not inconsistent with the by-laws, in the notice of the meeting.
- b. An annual meeting of the members shall be held at such time as may be provided in the by-laws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.
- c. Special meetings of the members may be called by the president, the secretary, the Board of Directors, or by such other officers or persons or number of proportion of members as may be provided in the articles of incorporation or the by-laws. In the absence of a provision fixing the number of proportion of members entitled to call a meeting, a special meeting of members may be called by members having at least one-twentieth (1/20) of the votes to cast at such meeting.

107-2-13 Notice of Meeting Members

Written or printed notice stating the place, day and hour of the meeting, and, in case of a special

meeting, the purpose or purposes for which the meeting is called, shall in the absence of a provision in the by-laws specifying a different period of notice, be delivered not less than ten (10) or more than fifty (50) days before the date of the meeting, either personally or by mail; or at the direction of the president, or the secretary or the officers or persons calling the meeting, to each members entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid.

107-2-14 Voting

- a. Members shall not be entitled to vote except as the right to vote shall be conferred by the articles of incorporation.
- b. A member may vote in person, or unless the articles of incorporation or the by-laws otherwise provide, may vote by proxy executed in writing by the member or his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Where the articles of incorporation or the by-laws so provide, voting on all matters including the election of directors or officers where they are to be elected by the members may be conducted by mail.
- c. The articles of incorporation or the by-laws may provide that in all elections for directors every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected or by distributing such votes on the same principle among any number of such candidates.
- d. If a corporation has no members or if the members have no right to vote, the directors shall have the sole voting power and shall have all of the authority and may take any action herein permitted by members.

107-2-15 Quorum

- a. The by-laws may provide the number or percentage of members entitled to vote represented in person or by proxy, or the number or percentage of votes represented in person or by proxy, which shall constitute a quorum at a meeting of members. In the absence of any such provisions, members having at least one-tenth (1/10) of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by this Chapter, the articles of incorporation or the by-laws.
- b. Unless otherwise provided by the articles of incorporation or the by-laws, the members present at a duly organized meeting may continue to do business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum.

- c. If a meeting cannot be organized because a quorum has not attended, those present may adjourn the meeting from time to time until a quorum is present, when any business may be transacted that may have been transacted at the meeting as originally called.

107-2-16 Board of Directors

The affairs of a corporation shall be managed by a Board of Directors. Directors need not be residents of the Reservation or members of the corporation unless the articles of incorporation or the by-laws so require. The articles of incorporation or the by-laws may prescribe other qualifications for directors.

107-2-17 Number, Election, Classification and Removal of Directors

- a. The number of directors of a corporation shall be not less than three. Subject to such limitation, the number of directors shall be fixed by the by-laws, except as to the number of first Board of Directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the by-laws unless the articles of incorporation. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a by-law fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.
- b. The names and addresses of the members of the first Board of Directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual election of directors or for such period as may be specified in the articles of incorporation or the by-laws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the by-laws. In the absence of a provision fixing the term of office, the term of office of a director shall be one (1) year.
- c. Directors may be divided into classes; the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified, exception the case of ex officio directors.
- d. A director may be removed from office pursuant to any procedure therefore provided in the articles of incorporation or the by-laws, and if none be provided, may be removed at a meeting called expressly for that purpose, with or without cause, by such vote as would suffice for his election.

107-2-18 Vacancies

Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the then members of the Board of Directors, though less than a quorum of the board, unless the articles of incorporation or the by-laws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his

predecessor in office.

107-2-19 Quorum of Directors

A majority of the number of directors fixed by the by-laws, or in the absence of a by-law fixing the number of directors, then of the number stated in the articles of incorporation shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation, or the by-laws, but in no event shall a quorum consist of less than one-third (1/3) of the number of directors so stated or fixed. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by this Chapter or by the articles of incorporation or by-laws.

107-2-20 Committees

If the articles of incorporation or the by-laws provide, the Board of Directors, by resolution adopted by a majority of the directors in office, each of which shall consist of two or more directors, which committees, to the extent provided in said resolution, in the articles of incorporation or in the by-laws of the corporation, shall have and exercise the authority of the Board of Directors in the management of the corporation. Other committees not having the exercising the authority of the Board of Directors in the management of the corporation may be designated and appointed by resolution adopted by a majority of the directors present at a meeting at which a quorum is present. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual director, of any responsibility imposed upon it or him by law.

107-2-21 Place and Notice of Directors' Meetings

Meetings of the Board of Directors, regular or special, may be held at such place within or without the Reservation, and upon such notice as may be prescribed by the by-laws, or where not inconsistent with the by-laws, by resolution of the Board of Directors. A director's attendance at any meeting shall constitute a waiver of notice of such meeting, excepting such attendance at a meeting by the director for the purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

Neither the business to be transacted, nor the purpose of any regular or special meeting of the Board of Directors need be specified in the notice or waiver of such notice, of such meeting, unless otherwise provided in the articles of incorporation or the by-laws.

107-2-22 Officers

- a. The officers of a corporation shall consist of a president, a secretary, and a treasurer, and may include one or more vice-presidents, and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three (3) years as may be prescribed in the articles of incorporation or the by-laws. In the absence of any such provision, all officers shall be elected or appointed annually by the Board of Directors. If the by-laws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.

- b. The articles of incorporation or the by-laws may provide that any one or more officers of the corporation or other organizations shall be ex officio members of the Board of Directors.
- c. The officers of a corporation may be designated by such other titles as may be provided in the articles of incorporation or the by-laws.
- d. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the property and affairs of the corporation as may be determined by resolution of the Board of Directors not inconsistent with the by-laws.

107-2-23 Removal of Officers

Any officer or agent elected or appointed may be removed by the persons authorized to elect or appoint such officer or agent whenever, in their judgment, the best interest of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not itself create contract rights.

107-2-24 Books and Records

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors; and shall keep at its registered office or principle office on the Reservation, a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member having voting rights, or his agent or attorney for any proper purpose at any reasonable time.

107-2-25 Shares of Stock and Dividends Prohibited

A corporation organized under this Chapter shall not authorize or issue shares of stock. No dividend shall be paid and no part of the income of a corporation shall be distributed to its members, directors, or officers. A corporation may pay compensation, including pensions, in a reasonable amount to its members, directors or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation, may make distribution to its members or others as permitted by this Chapter.

107-2-26 Loans to Directors and Officers Prohibited

No loans shall be made by a corporation organized under this Chapter to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan to a director or an officer of the corporation, and any officer participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

107-2-27 Incorporators

Three (3) or more natural persons of the age of twenty-one (21) years or more may act as incorporators of a corporation by signing, certifying, and delivering in duplicate to the Tribal Secretary, articles of incorporation for such corporation.

107-2-28 Articles of Incorporation

a. The articles of incorporation

3. The name of the corporation;
4. The period of duration, which may be perpetual;
5. The purpose or purposes for which the corporation is organized;
6. If the corporation is to have no members, a statement to that effect;
7. If the corporation is to have members, any provision which the incorporators elect to set forth in the articles of incorporation stating the qualifications and rights of members and conferring, limiting, or denying the right to vote;
8. If the directors or any of them are not to be elected or appointed by members, a statement of the manner in which such directors shall be elected or appointed, or that the manner of such election or appointment of such directors shall be provided in the by-laws;
9. Any provisions, not inconsistent with this Chapter or any other law or ordinance of the Tulalip Tribes which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets on dissolution or final liquidation and any provisions which under this Chapter is required or permitted to be set forth in the by-laws;
10. The address, including street and number, if any, of its initial registered office, and the name of its initial registered agent at such address;
11. The number of directors constituting the initial board of directors, and the names and addresses, including street and number, if any, of the persons who are to serve as the initial directors until the first annual meeting or until their successors be elected and qualify; and
12. The name and address, including street and number, if any of each incorporator.

b. It shall be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Chapter.

- c. Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the by-laws shall be controlling. Whenever a provision of the articles of incorporation is inconsistent with the by-law, the provision of the articles of incorporation shall be controlling.

107-2-29 Filing of Articles of Incorporation

- a. Duplicate originals of the articles of incorporation shall be delivered to the Tribal Secretary. The Tribal Secretary may by regulation set fees for filing articles and other filings under this Chapter.
- b. If the Tribal Secretary finds that the articles of incorporation conform to law, they shall, when all fees and charges have been paid as under this Chapter prescribed:
 - 1. Endorse on each of such duplicate originals the work "Filed" and the month, day, and year of filing thereof;
 - 2. File one of such duplicate original in their office;
 - 3. Issue a certificate of incorporation to which they shall affix the other duplicate original; and
 - 4. Deliver the certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto, to the incorporators or their representatives.

107-2-30 Effect of Issuance of Certificate of Incorporation

Upon the incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the corporation have been complied with and that the corporation has been incorporated under this Chapter, except as against the Tulalip Tribes in a proceeding to cancel or revoke the certificate of incorporation. A corporation organized under this Chapter shall in all matters be subject to the jurisdiction of the Tulalip Tribes and the Tulalip Tribal Court.

107-2-31 Organization Meeting

- a. After the issuance of the certificate of incorporation, an organization meeting of the Board of Directors named in the articles of incorporation shall be held within the Reservation at the call of a majority of the directors so named for the purpose of adopting by-laws, (unless the power to adopt by-laws has been reserved by the articles of incorporation to the members, in which event the by-laws shall be adopted by the members), electing officers, and the transaction of such other business as may come before the meeting. The directors calling the meeting shall give at least five (5) days notice thereof by mail to each director so named; which notice shall state the time and place of the meeting; provided, however, that if all the director so named; which notice

shall state the time and place of the meeting; provided, however, that if all the directors shall waive notice in writing and fix a time and place for said organization meeting, no notice shall be required of such meeting.

- b. A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least five (5) days notice, for such purposes as shall be stated in the notice of meeting.

107-2-32 Right to Amend Articles of Incorporation

A corporation may amend its articles of incorporation, from time to time, in any and as many respects as desired; provided that its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation if made at the time of making such amendment.

107-2-33 Procedure to Amend Articles of Incorporation

Amendment to the articles of incorporation shall be made in the following manner:

- a. Where there are members having voting rights, the Board of Directors shall adopt a resolution setting forth the proposed amendment and directing that it is to be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting;
- b. Written or printed notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this Chapter for the giving of notice of meetings of members. If the meeting is an annual meeting, the proposed amendment or such summary shall be included in the notice of such annual meeting;
- c. The proposed amendment shall be adopted upon receiving the affirmative vote of at least two-thirds (2/3) of the votes entitled to be cast by members present or represented by proxy at such meeting;
- d. Where there are no members, or no members having voting rights, an amendment shall be adopted at a meeting of the Board of Directors upon receiving the vote of a majority of the Directors in office; and
- e. Any number of amendments may be submitted and voted upon at any one meeting.

107-2-34 Articles of Amendment

The articles of amendment shall be executed in duplicate by the corporation; by its president or vice-president, and the corporate seal shall be there to affixed, attested by its secretary or an assistant secretary, and shall set forth:

- a. The name of the corporation;

- b. The amendment so adopted;
- c. Where there are members having voting rights;
 - 1. A statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds (2/3) of the votes entitled to be cast by members present or represented by proxy at such meeting; or
 - 2. A statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
- d. Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the Board of Directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

107-2-35 Filings of Articles of Amendment

- a. Duplicate originals of the articles of amendment shall be delivered to the Tribal Secretary.
- b. If the Tribal Secretary finds that the articles of amendment conform to law, they shall, when all fees and charges have been paid as in this Chapter prescribed:
 - 1. Endorse on each of such duplicate originals the word "Filed", and the month, day and year of the filing thereof;
 - 2. File one of such duplicate originals in their office;
 - 3. Issue a certificate of amendment to which they shall affix the other duplicate original; and
 - 4. Deliver the certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto, to the corporation or its representative.

107-2-36 Effect of Certificate of Amendment

- a. Upon the issuance of the certificate of amendment, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.
- b. No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

107-2-37 Voluntary Dissolution

A corporate may dissolve and wind up its affairs in the following manner:

- a. Where there are members having voting rights, the Board of Directors shall adopt a resolution recommending that the corporate be dissolved and directing that the question of such dissolution be submitted to a vote at a meeting of members having voting rights, which may be either an annual meeting or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time frame and in the manner provided in this Chapter, for the giving notice of meetings to members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds (2/3) of the votes entitled to be cast by members present or represented by proxy at such meetings;
- b. Where there are no members, or no members having voting rights, the dissolution of the corporation shall be authorized at a meeting of the Board of Directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office; and
- c. Upon adoption of such resolution by the members, or by the Board of Directors where there are no members or members with voting rights, the corporation shall cease to conduct its affairs except insofar as may be necessary for the winding up thereof; shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation and shall proceed to collect its assets and apply and distribute them as provided in this Chapter.

107-2-38 Distribution of Assets

The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

- a. All liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provisions shall be made therefor;
- b. Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements;
- c. Assets received and held by the corporation subject to limitations, permitting their use only for charitable, religious, missionary, benevolent, education, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution, shall be transferred, or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this Chapter;

- d. Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the by-laws to the extent that the articles of incorporation or by-laws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others; and
- e. Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or not for profit, as may be specified if a plan of distribution is adopted as provided in this Chapter.

107-2-39 Plan for Distribution

A plan for providing for the distribution of assets, not inconsistent with the provisions of this Chapter, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this Chapter requires a plan for distribution, in the following manner:

- a. Where there are members having voting rights the Board of Directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at the meeting of members having voting rights, which may be either an annual or special meeting. Written or printed notice stating that the purpose, or one of the purposes of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this Chapter for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds (2/3) of the votes entitled to be cast by members present or represented by proxy at such meeting;
- b. Where there are no members, or no members having voting rights, a resolution to revoke the voluntary dissolution proceeding shall be adopted at a meeting of the Board of Directors upon receiving the vote of a majority of the directors in office; and
- c. Upon adoption of such resolution by the members, or by the Board of Directors, where there are no members or no members with voting rights, the corporation may there upon again conduct its affairs. If the articles of dissolution have been delivered to the Tribal Secretary, notice of such revocation shall be given to them in writing.

107-2-40 Articles of Dissolution

If voluntary dissolution proceedings have not been revoked; when all debts, liabilities, and obligations of the corporation shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed, or distributed in accordance with the provisions of this Chapter, articles of dissolution shall be executed in duplicate by the corporation; by its president or a vice-president, and the corporation seal shall be thereto affixed and attested by its secretary or an assistant secretary, and such statement shall set forth:

- a. The name of the corporation;
- b. Where there are members having voting rights;
 - 1. A statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds (2/3) of the votes entitled to be cast by members or represented by proxy at such meetings; or
 - 2. A statement that such resolution was adopted by consent in writing signed by all members entitled to vote with respect thereto;
- c. Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the Board of Directors at which the resolution to dissolve received the vote of a majority of the directors in office;
- d. That all debts, liabilities, and obligations of the corporation have been paid and discharged or that adequate provision has been made therefor;
- e. That all the remaining property and assets of the corporation have been transferred, conveyed, or distributed in accordance with the provisions of this Chapter; and
- f. That there are no suits pending against the corporation in any Court, or that adequate provisions have been made for the satisfaction of any judgement, order, or decree which may be entered against it in any pending suit.

107-2-41 Filing of Articles of Dissolution

- a. Duplicate originals of such articles of dissolution shall be delivered to the Tribal Secretary.
- b. If the Tribal Secretary finds that such articles of dissolution conform to law, he shall, when all fees and charges have been paid as in this Chapter prescribed:
 - 1. Endorse on each of such duplicate original the word "filed", and the month, day, and year of such filing thereof;
 - 2. File one of such duplicate original in their office;
 - 3. Issue a certificate of dissolution to which they shall affix the other duplicate original; and
 - 4. Deliver the certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto, to the representative of the dissolved

corporation.

- c. Upon issuance of such certificate of dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by members, directors, and officers as provided in this Chapter.

107-2-42 Involuntary Dissolution

- a. A corporation may be dissolved involuntarily by a decree of the Court in action instituted by the Tribal Secretary in the name of the Tulalip Tribes, when it is made to appear to the Court that:
 - 1. The franchise of the corporation was procured through fraud; or
 - 2. The corporation has continued to exceed or abuse the authority conferred upon it by this Chapter; or
 - 3. The corporation has failed for ninety (90) days to appoint and maintain a registered agent as provided in this Chapter; or
 - 4. The corporation has failed for ninety (90) days after change of its registered office or registered agent to deliver to the Tribal Secretary statement of such change.
- b. At least thirty (30) days before any action for the involuntary dissolution of a corporation shall be filed by the Tribal Secretary, he shall notify the corporation by certified or registered mail addressed to such corporation at its registered office, a notice of their intention to file such suit and the reasons therefor. If, before action filed, the corporation shall submit satisfactory evidence that said franchise was not procured through fraud or that the corporation has not exceeded or abused such authority or shall appoint or maintain a registered agent as provided in this Chapter, or deliver to the Tribal Secretary, the required statement of change or registered agent, the Tribal Secretary shall not file an action against such a corporation for such cause. If, after action is filed, for a reason stated in paragraph 3 or 4 of the preceding subsection the corporation shall, as the case may be, appoint or maintain a registered agent as provided in this Chapter, or shall deliver to the Tribal Secretary, the required statement of change of registered agent, and shall pay the costs of such action, the action for such cause shall abate.

107-2-43 Jurisdiction of Court to Liquidate Assets and Affairs of Corporation

The Tulalip Tribal Court shall have full power to liquidate the assets and affairs of a corporation:

- a. In any action by a member or director when it is made to appear:
 - 1. That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by that reason thereof, and either that the members are unable to break the deadlock or

there are no members having voting rights; or

2. That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or
 3. That the corporate assets are being misapplied or wasted; or
 4. That the corporation is unable to carry out its purposes.
- b. In an action by a creditor:
1. When the claim of the creditor has been reduced to judgement and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or
 2. When the corporation has admitted in writing and the claims of the creditor is due and owing and it is established that the corporation is insolvent;
- c. Upon application by a corporation to have its dissolution continued under the supervision of the Court;
- d. When an action has been commenced by the Tribal Secretary to dissolve a corporation and it is made to appear that liquidation of its affairs should precede the entry of a decree of dissolution;
- e. It shall not be necessary to make directors or members parties to any such action or proceeding unless relief is sought against them personally.

107-2-44 Procedure in Liquidation of Corporation by Court

- a. In proceedings to liquidate the assets and affairs of a corporation, the Court shall have the power to issue injunctions, to appoint receivers pendente lite, with such powers and duties as the Court, from time to time may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on its affairs of the corporation until a full hearing can be had.
- b. After a hearing had upon such notice as the Court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the Court, the Court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. Such liquidating receiver or receivers shall have authority subject to the order of the Court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such power and duties may be increased or diminished at any time during the proceedings.

- c. The assets of the corporation of the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied and distributed as follows:
1. All costs and expenses of the Court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provision shall be made therefor;
 2. Assets held by the corporation upon conditions requiring return, transfer, or conveyance which conditions occurs by reason of dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with such statements;
 3. Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary benevolent, education, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the Court may direct;
 4. Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the by-laws to the extent that the articles of incorporation or by-laws determine the distributive rights of the members or any class or classes of members, or provide for distribution to others; and
 5. Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution has been adopted, as the Court may direct.
- d. The Court shall have power to allow, from time to time, as expenses of the liquidation, compensation to the receiver or receivers and to attorney in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale of disposition of such assets.
- e. A receiver of a corporation appointed under the provisions of this Section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The Court appointing such receiver shall, for the purposes of this Chapter have exclusive jurisdiction of the corporation and its property, wherever situated.

107-2-45 Qualification of Receivers

A receiver shall in all cases be a natural person or a domestic corporation authorized to act as receiver, and shall in all cases give such bond as the Court may direct with such sureties as the Court may require.

107-2-46 Filing of Claims in Liquidation Proceedings

In proceeds to liquidate the assets and affairs of a corporation, the Court may require all creditors of the corporation to file with the Clerk of Court or with the receiver, in such form as the Court may prescribe, proofs under oath of their respective claims, it shall fix a date which shall be not less than four (4) months from the date of the order, as the last day for the filing of claims and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the Court may extend the time for the filing of claims. Creditors and claimants failing to file proofs or claims on or before the date so fixed may be barred, by order of the Court, from participating in the distribution of the assets of the corporation.

107-2-47 Discontinuance of Liquidation Proceedings

The liquidation of the assets and affairs of a corporation may be discontinued at any time during the liquidation proceedings when it is made to appear that cause for liquidation no longer exists. In such event the Court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

107-2-48 Decree of Involuntary Dissolution

In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the Court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

107-2-49 Filing of Decree of Dissolution

In case the Court shall enter a decree dissolving a corporation, it shall be the duty of the Clerk of Court to cause a certified copy of the decree to be delivered to the Tribal Secretary, who shall file the same. No fee shall be charged by the Tribal Secretary for the filing thereof.

107-2-50 Deposits with Tribal Secretary

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to any persons who are unknown or cannot be found, or who are under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and be deposited with the Tribal Secretary and shall be paid over to such person or to his legal representative upon proof satisfactory to the Court of this rights thereto.

107-2-51 Annual Report of Domestic and Foreign Corporations

a. Each domestic corporation shall prepare an annual report setting forth:

1. The name of the corporation;
2. The address of its registered office and the name of its registered agent;
3. A brief statement of the character of the affairs which the corporation is actually conducting; and

4. The names and respective addresses, including street and number, if any, of the directors and officers of the corporation.
- b. Such annual report shall be made on forms prescribed and furnished by the Tribal Secretary and the information therein contained shall be given as of the date of the execution of the report. It shall be executed by the corporation; by its president, a vice-president, secretary, or assistant secretary, treasurer, or assistant treasurer, or if the corporation is in the hands of a receiver or receivers, or trustee, it shall be executed by such receiver, receivers, or trustee.

107-2-52 Filing of Annual Report of Corporation

Such annual report of a corporation shall be delivered to the Tribal Secretary. If the Tribal Secretary, between the first day of January and the first day of March of each year, find that such report conforms to law, he shall file the same. If he or she finds that it does not so conform, he or she shall promptly return the same to the corporation for any necessary correction, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinafter provided shall not apply, if such report is corrected to conform to the requirements of this Chapter and returned to the Tribal Secretary in sufficient time to be filed prior to the first day of July of the year in which it is due.

107-2-53 Penalties Imposed Upon Corporations

Each corporation, foreign or domestic, that fails or refuses to file its annual report for any year within the time prescribed by this Chapter shall be subject to a penalty of fifty dollars (\$50.00), to be assessed by the Tribal Secretary.

107-2-54 Fees for Filing Documents and Issuing Certificates

The Tribal Secretary shall charge and collect for:

- a. Filing articles of incorporation and issuing a certificate of incorporation (\$100.00);
- b. Filing articles of amendment and issuing a certificate of amendment; (\$100.00);
- c. Filing a statement of change of address of registered office or change of registered agent, or both; (\$25.00);
- d. Filing articles of dissolution; (\$100.00);
- e. Filing a statement of election to accept this Chapter and issuing certificate of acceptance; (\$25.00);
- f. Filing any other statement or report, including an annual report of a domestic or foreign corporation; (\$15.00);

- g. Indexing each document filed, except an annual report (\$5.00);
- h. Furnishing a certified copy of any document, instrument, or paper relating to a corporation; (\$10.00).
- i. Furnishing a certificate as to the existence of a fact relating to a corporation; (\$10.00).

The Tribal Secretary is authorized to make regulation providing for reasonable fees for other services not listed in this Section or to changes by regulation in any and all fees for services set out in this Chapter.

107-2-55 Certificates and Certified Copies to be Received in Evidence

All certificates issued by the Tribal Secretary in accordance with the provisions of this Chapter and all copies of documents filed in his or her office in accordance with the provisions of this Chapter, when certified by him or her, shall be taken and received in all Court, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the Tribal Secretary under the seal of his or her office, as to the existence or non-existence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated.

107-2-56 Forms to be Furnished by the Tribal Secretary

All reports required by this Chapter to be filed in the office of the Tribal Secretary shall be made on forms which shall be prescribed and furnished by the Tribal Secretary. Forms for all other documents to be filed in the office of the Tribal Secretary shall be furnished by the Tribal Secretary on request therefor, but the use thereof, unless otherwise specifically prescribed in this Chapter, shall not be mandatory.

107-2-57 Greater Voting Requirements

Whenever, with respect to any action to be taken by the members or directors of a corporation, the articles of incorporation requires the vote or concurrence of a greater proportion of the members or directors, as the case may be, than required by this Chapter, with respect to such action, the provisions of the articles of incorporation shall control.

107-2-58 Waiver of Notice

Whenever any notice is required to be given to any member or director of a corporation under the provisions of this Chapter, under the provisions of the articles of incorporation, or by-laws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Presence without objection also waives notice.

107-2-59 Action by Members or Directors Without a Meeting

Any action required by this Chapter to be taken at a meeting of the members or directors of a

corporation, or any action which may be taken at a meeting of the members of director, may be taken without meeting if consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the Tribal Secretary under this Chapter.

107-2-60 Effect of Invalidity of Part of This Chapter

If a Court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, Section, or part of this Chapter, such judgment or decree shall not effect, impair, invalidate, or nullify the remainder of this Chapter, but the effect thereof shall be confined to the clause, sentence, paragraph, Section, or part of this Chapter so adjudged to be invalid or unconstitutional.